



Attorney General of New Mexico

GARY K. KING

Attorney General

ALBERT J. LAMA

Chief Deputy Attorney General

June 6, 2008

Mr. Francisco Gonzales
PO Box 85
Ranchos de Taos, NM 87557

Re: Determination of Open Meetings Act complaint – Acequia Madre del Rio Grande

Dear Mr. Gonzales:

This determination addresses the complaint that you filed telephonically with our office alleging that the Acequia Madre del Rio Grande Commission ("Commission") may have violated the Open Meetings Act ("OMA"), NMSA 1978, Sections 10-15-1 through 10-15-4. According to your complaint, the Commission violated the OMA because it voted to approve a \$1,800.00 payment to Mr. Richard Tafoya outside of a public meeting. I have reviewed: (1) a July 21, 2007 letter from Commission Member Elizabeth Winter to Commission Member Danny Martinez dated discussing this issue (2) the Commission's May 20 and July 2, 2007 minutes; and (3) the OMA. As described in more detail below, it appears that the Commission complied with the OMA.

The OMA states: "[a]ll meetings of a quorum of members of any board ... held for the purpose of...discussing public business ... are declared to be public meetings open to the public at all times...." NMSA 1978, § 10-15-1(B). According to your letter, the Commission violated this provision when it voted to approve a payment to Mr. Tafoya outside of a public meeting. However, according to the May 20, 2007 minutes:

Commission Member Danny [Martinez] expressed the overflow of the Acequia due to a head board creating an obstruction of water flow on May 15, 2007. The water overflowed into Richard Tafoya's property causing damage. Danny has copies for estimates on carpeting and driveway. We went into discussion about liability and after a long discussion we will be getting advice from an attorney and will meet at a later date to discuss the commission's wishes.

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According to the July 2, 2007 minutes:

A vote on the water damage to Richard Tafoya: Danny voted yes; Elizabeth [Winter] voted no and that it would set a precedence; Bob [Martinez] voted yes and explained that if we went to court, it would cost more in attorney fees...

Therefore, the Commission voted on this item during its July 2007 meeting and thus complied with OMA. The Commission provided Mr. Tafoya with a check for \$1,800 on July 21, 2007.

Although we did not determine that the Commission violated OMA, we appreciate your bringing this matter to our attention. If you have questions about the specific matters addressed in this letter, or about the Open Meetings Act in general, please let me know.

Sincerely,



Zachary Shandler
Assistant Attorney General

Cc: Commissioner Danny Martinez, President
(C/O Dennis Romero, Esq.)